

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW JERSEY

IN RE PET FOOD PRODUCTS
LIABILITY LITIGATION

: MDL Docket No. 1850 (All Cases)
:
: Case No. 07-2867 (NLH)
:
: Judge Noel L. Hillman
:
: **[PROPOSED] ORDER GRANTING**
: **DEFENDANTS' UNOPPOSED**
: **MOTION TO LIMIT THE**
: **RETENTION OF ORGANIZED**
: **RECALLED PRODUCT, RAW**
: **WHEAT GLUTEN AND**
: **UNORGANIZED INVENTORY**

Pursuant to Fed. R. Civ. P. 26(b)(2)(C)(iii), 26(c)(2) and 26(c)(4), and for good cause shown, Defendants' Unopposed Motion to Limit the Retention of Organized Recalled Product, Raw Wheat Gluten and Unorganized Inventory is GRANTED.

It is ORDERED that: (1) the moving Defendants may execute the sampling and general retrieval plan for the organized recalled product stored on pallets and/or within cardboard cases as recommended by Dr. George P. McCabe; (2) Defendants ChemNutra, Del Monte and Menu Foods may execute the sampling and general retrieval plan for the raw wheat gluten as recommended by Dr. McCabe; and (3) Defendant Del Monte may execute the sampling and general retrieval plan for its work-in-progress recipes containing raw wheat gluten as recommended by Dr. McCabe.

It is further ORDERED that, prior to the execution of the sampling and retrieval plans for organized recalled product, raw wheat gluten and work-in-progress recipes, the moving Defendants shall provide Plaintiffs with more specific details concerning the retrieval plans. If Plaintiffs disagree with any aspect of the retrieval plans, Plaintiffs or Defendants shall have the

Exhibit 12

right to seek Court intervention. If Plaintiffs and Defendants agree conceptually on the specifics of the retrieval plan, Defendants shall provide Plaintiffs with a copy of the more detailed retrieval plans, and Plaintiffs shall have the right to review and comment on the details of the retrieval plans within ten (10) calendar days from the date each plan is provided by Defendants. Within the ten-day period, if Plaintiffs agree with the details of the execution of the retrieval plans, they will notify Defendants in writing. Thereafter, the execution of the sampling and retrieval plans may take place. Nothing regarding the details of the retrieval plans shall prevent Defendants from immediately starting the disposal of the unorganized inventory.

It is further ORDERED that moving Defendants are permitted to dispose of any organized recalled product, unorganized inventory, raw wheat gluten or work-in-progress recipe that is unnecessary to implement or execute Dr. McCabe's sampling and retrieval plans.

IT IS SO ORDERED.

Dated: _____, 2007

NOEL L. HILLMAN, U.S.D.J.

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